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25 OCT 2007

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In re Application of BREITENBACH et al :
U.S. Application No.: 10/581,588 :
PCT Application No.: PCT/US2004/041561 :
Int. Filing Date: 09 December 2004 :
Priority Date Claimed: 09 December 2003 : DECISION
Attorney Docket No.: 03-061 :
For: PRODUCTS AND PROCESSES FOR :
ESTABLISHING MULTI-TRANSITION :
RELATIONSHIPS WITH CUSTOMERS OF :
VENDING MACHINES :

This is in response to applicant's "Response to Decision on Petition Under 37 CFR §1.47(a) to Request Acceptance of National Application Without Participation of One or More Inventors", filed 13 September 2007, which is being treated as a renewed petition under 37 CFR 1.497(d).

BACKGROUND

On 09 December 2004, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 09 December 2004, applicant filed international application PCT/US2004/041561, which claimed priority of an earlier United States application filed 09 December 2003. The thirty-month period for paying the basic national fee in the United States expired on 09 June 2006.

On 02 June 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 16 February 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 12 March 2007, applicant filed an executed declaration.

On 17 April 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration filed 12 March 2007 lists three inventors who are not listed in the published international application.

On 15 May 2007, applicant filed a petition under 37 CFR 1.497(d).

On 16 August 2007, this Office mailed a decision dismissing the 15 May 2007 petition.

On 13 September 2007, applicant filed the present renewed petition under 37 CFR 1.497(d).

DISCUSSION

37 CFR 1.497(d) states,

If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17(i); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter); and
- (4) Any new oath or declaration required by paragraph (f) of this section.

Petitioner has previously satisfied items (1) and (2) above.

With regard to item (3) above, written consent of the assignee has been provided.

With regard to item (4) above, the declaration executed by joint inventor Sih Lee is improper. Specifically, the declaration fails to list Paul Breitenbach as an inventor as required by 37 CFR 1.497(a)(3).

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.497(d) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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